

780 KAR 3:130. Employee grievances.

RELATES TO: KRS 151B.035(3)(t), 151B.055

STATUTORY AUTHORITY: KRS 151B.035(3)(t)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.035(3)(t) requires the Executive Director of the Office of Career and Technical Education to promulgate administrative regulations governing employee grievances and complaints. KRS 151B.055(3)(a) requires the Office of Career and Technical Education to prescribe a form to complete by an employee who wishes to file an appeal. This administrative regulation establishes the requirements governing employee grievances.

Section 1. Definition. "Grievance" means a complaint filed by an employee which concerns working conditions over which the Office of Career and Technical Education has control and which has specifically occurred, or of which the employee has become aware, within thirty (30) calendar days prior to filing.

Section 2. General Provisions. (1) An employee in the certified and equivalent personnel system who believes that the employee has been subjected to unfair or unjust treatment concerning the conditions of employment may file a grievance in accordance with this administrative regulation.

(2) A grievance concerning an action which is appealable directly to the Kentucky Technical Education Personnel Board may be filed with the Office of Career and Technical Education. The filing of a grievance with the office shall not:

(a) Prohibit the employee from filing an appeal with the Kentucky Technical Education Personnel Board; or

(b) Extend the thirty (30) calendar day appeal period.

(3) An employee shall be entitled to file grievances without interference, coercion, discrimination, or reprisal.

(4) The appointing authority shall inform all employees in the Office of Career and Technical Education of the provisions of this administrative regulation, or any modifications in the levels of review.

(5) The Executive Director of the Office of Career and Technical Education shall make available to employees, through the appointing authority, the "Grievance Form -151B", which shall be used to file a grievance. The form shall contain a notice that, if the grievance concerns an action appealable directly to the Kentucky Technical Education Personnel Board pursuant to KRS 151B.055, the employee's right to file an appeal shall not be extended beyond thirty (30) calendar days.

(6) A state employee shall not use state time, equipment, materials, or personnel in pursuing a grievance.

Section 3. Procedures. (1) A grievance shall be filed with the employee's immediate supervisor within thirty (30) calendar days following occurrence, or the employee becoming aware through the exercise of due diligence, of the action which is the subject of the grievance. If an act of the immediate supervisor is the basis for the grievance, the grievance shall be filed with the next line supervisor.

(2) The employee shall set forth in writing the basis of the grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, the employee shall attach it to the grievance.

(3) If a grievance is filed that alleges harassment or discrimination on the basis of race, col-

or, religion, national origin, sex, disability or age, the recipient shall immediately notify the Executive Director of the Office of Career and Technical Education and the Office of Equal Employment Opportunity (EEO) Coordinator to comply with the affirmative action plan.

(4) An interview to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle those employees to compensatory time.

(5) An interview to evaluate or investigate the grievance held with the grievant or other employee shall not require the use of leave time.

(6) Both parties shall be given the opportunity to have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels. (1)(a) Except as provided in paragraph (d) of this subsection, the immediate supervisor shall, upon investigation, issue findings and a decision in writing to the employee within ten (10) working days after receipt of the grievance.

(b) If the first line supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within five (5) working days of receipt of the decision to the second line supervisor.

(c) If the area supervisor or the division director is the first line supervisor, the request for review shall automatically be requested from the Ombudsman for the Office of Career and Technical Education.

(d) In accordance with Section 3(1) of this administrative regulation, if an act of the immediate supervisor was the basis for the grievance:

1. The immediate supervisor shall not investigate or issue findings or a decision; and

2. The grievance shall be investigated by the second line supervisor, with subsequent appeals available, as provided in subsections (2) through (6) of this section.

(2)(a) The second line supervisor shall, upon investigation, issue findings and a decision in writing to the employee within ten (10) working days after receipt of the grievance.

(b) If the second line supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within five (5) working days of receipt of the decision to the ombudsman in the Office of Career and Technical Education.

(3) If the ombudsman is unable to mediate the grievance to the satisfaction of the employee, the employee may request review of the grievance within five (5) working days of receipt of the decision to the Executive Director of the Office of Career and Technical Education or his designee for a final determination. The executive director, upon investigation, shall issue findings and a final determination in writing to the employee within ten (10) working days.

(4) Failure of supervisory or management personnel to respond within the prescribed time limits shall be grounds for the advancement of the grievance to the next review level, unless the time limits have been extended by agreement of the parties.

(5) An intermediate grievance level may be waived by written agreement of the parties.

Section 5. Incorporation by Reference. (1) "Grievance Form-151B", revised 7/2008, is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Office of Career and Technical Education, Capital Plaza Tower, 20th Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (17 Ky.R. 748; eff. 10-14-1990; 27 Ky.R. 1883; 2446; eff. 3-19-2001; 28 Ky.R. 1208; eff. 1-14-2002; 35 Ky.R. 1873; 2238; eff. 5-1-2009; TAm eff. 6-4-2009; Crt eff. 6-28-2019.)